

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

UMG RECORDINGS, INC., a Delaware
corporation; LAVA RECORDS LLC, a
Delaware limited liability company; and BMG
MUSIC, a New York general partnership,

Plaintiffs,

v.

CODIE CUNDIFF,

Defendant.

**No. 3:08-cv-05267-BHS-RSL
Yarmuth File Sharing Litigation**

**REQUEST TO ENTER DEFAULT;
AFFIDAVIT OF LYLE A.
TENPENNY**

TO: THE CLERK OF THE ABOVE-ENTITLED COURT

Plaintiffs hereby request that the Clerk enter default in this matter against Defendant
Codie Cundiff on the ground that Defendant has failed to appear or otherwise respond to the
Complaint within the time prescribed by the Federal Rules of Civil Procedure. Affidavit of
Lyle A. Tenpenny ¶ 5.

Plaintiffs served the Summons and Complaint on Defendant on June 29, 2008, by
substitute service, as evidenced by the proof of service on file with this Court. Id. ¶ 2.
Neither Plaintiffs nor the Court have granted Defendant any extensions of time to respond to

**REQUEST TO ENTER DEFAULT; AFFIDAVIT
OF LYLE A. TENPENNY**
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YARMUTH WILSDON CALFO PLLC
FOURTH & MADISON
925 FOURTH AVENUE, SUITE 2500
SEATTLE, WA 98104
T 206 516 3800 F 206 516 3888

1 the Complaint. Id. ¶ 4. Plaintiffs are informed and believe that Defendant is not an infant or
2 incompetent person or in the military service. Id. ¶ 6.

3 Dated this 13th day of November, 2008

4 **YARMUTH WILSDON CALFO PLLC**

5 /s/Lyle A. Tenpenny

6 Scott T. Wilsdon, WSBA #20608

7 Lyle A. Tenpenny, WSBA #34883

8 Fourth & Madison

9 925 Fourth Avenue, Suite 2500

10 Seattle, WA 98104

11 (206) 516-3800

12 (206) 516-3888 (fax)

13 Attorneys for Plaintiffs

AFFIDAVIT OF LYLE A. TENPENNY

STATE OF WASHINGTON :
COUNTY OF KING : ss.
:

I, LYLE A. TENPENNY, declare:

1. I am an attorney at law licensed to practice before the Courts of the State of Washington and this United States District Court. I am an attorney with the law firm of Yarmuth Wilsdon Calfo PLLC, attorneys for Plaintiffs. Unless otherwise stated, I have personal knowledge of the following facts and, if called and sworn as a witness, could and would competently testify thereto.

2. On April 29, 2008, Plaintiffs filed the Complaint in this case against Defendant. Attached hereto as Exhibit 1 is a true and correct copy of the proof of service on file with the Court, reflecting that Defendant was served with the Summons and Complaint on June 29, 2008, by substitute service.

3. More than 20 days have elapsed since the date on which service of the Summons and Complaint was effective.

4. Neither Plaintiffs nor the Court have granted Defendant any extension of time to respond to the Complaint.

5. Defendant has failed to answer or otherwise respond to the Complaint, or serve a copy of any answer or other response upon Plaintiffs' attorneys of record.

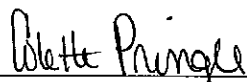
6. I am informed and believe that Defendant is not an infant or incompetent person and, after consulting available public databases, is not in the military service.

1 I declare under penalty of perjury under the laws of the United States of America that
2 the foregoing is true and correct.

3 Executed on Nov. 13, 2008 at Seattle, Washington.

4 
5 _____
6 LYLE A. TENPENNY

7 SUBSCRIBED AND SWORN TO before me this 13th day of November, 2008.

8 
9 _____
10 Print Name: Colette Pringle
11 NOTARY PUBLIC in and for the State of
12 Washington, residing at Seattle.

13 My Commission Expires: 1/19/12

14
15 COLETTE D. PRINGLE
16 STATE OF WASHINGTON
17 NOTARY PUBLIC
18 MY COMMISSION EXPIRES
19 01-19-12
20
21
22
23
24
25
26

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Western District of Washington

UMG RECORDINGS, INC., a Delaware corporation; LAVA RECORDS LLC, a Delaware limited liability company; and BMG MUSIC, a New York general partnership,

SUMMONS IN A CIVIL ACTION

CASE NUMBER: **C08 5267 BHS**

V.

CODIE CUNDIFF

TO:

Codie Cundiff
1923 NW Mushroom Lane
Poulsbo, WA 98370

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Scott T. Wilsdon
Lyle A. Tenpenny
Yarmuth Wilsdon Calfo PLLC
Fourth & Madison
925 Fourth Avenue, Suite 2500
Seattle, WA 98104

Tel: (206) 516-3800
Fax: (206) 516-3888

an answer to the complaint which is served on you with this summons, within 20 days after service summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

BRUCE RIFKIN

CLERK

APR 29 2008

DATE

(By) *Mary Ward*
DEPUTY CLERK

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IN THE
UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON

UMG RECORDINGS, INC., ET AL.,

Plaintiff/Petitioner

vs.
CODIE CUNDIFF

Defendant/Respondent

Hearing Date:

CAUSE NO: **C08-5267-BHS-RSL**

DECLARATION OF SERVICE OF:
NOTICE TO DEFENDANT; SUMMONS; ORDER OF
REFERENCE; COMPLAINT FOR COPYRIGHT
INFRINGEMENT; EXHIBIT; CIVIL COVER SHEET;
CERTIFICATION AND NOTICE OF INTERESTED PARTIES

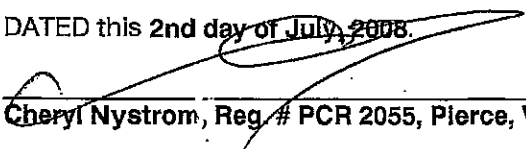
The undersigned hereby declares: That s(he) is now and at all times herein mentioned was a citizen of the United States, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, and is competent to be a witness therein.

On the **29th day of June, 2008, at 2:14 PM**, at the address of **1923 NW MUSHROOM Lane, POULSBO, Kitsap County, WA 98370**; this declarant served the above described documents upon **CODIE CUNDIFF**, by then and there personally delivering **1** true and correct copy(ies) thereof, by then presenting to and leaving the same with **JOHN DOE, RESIDENT 20, 5'10, 200, C/M**.

No Information was provided or discovered that indicates that the subjects served are members of the U.S. military.

Declarant hereby states under penalty of perjury under the laws of the State of **Washington** that the statement above is true and correct.

DATED this **2nd day of July, 2008**.


Cheryl Nystrom, Reg # PCR 2055, Pierce, WA

FOR: YARMUTH WILSDON
CALFO PLLF
REF: 305.63

ORIGINAL PROOF OF
SERVICE

Tracking #: 8039699 SEA

